

PROB. 12B  
(7/93)

ORIGINAL

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

## United States District Court

for the

## DISTRICT OF HAWAII

**Request for Modifying the Conditions or Term of Supervision  
with Consent of the Offender***(Probation Form 49, Waiver of Hearing is Attached)*JAN 28 2008  
at \_\_\_\_\_ o'clock and \_\_\_\_\_ min.  
SUE BEITIA, CLERK

Name of Offender: LAMASI SUA

Case Number: CR 01-00358DAE-01

Name of Sentencing Judicial Officer: The Honorable David Alan Ezra  
U.S. District Judge

Date of Original Sentence: 3/18/02

Original Offense: DISTRIBUTION OF COCAINE BASE WITHIN 1,000 FEET OF A  
PUBLIC PLAYGROUND, in violation of 21 U.S.C. §§ 841(a)(1) and  
860(a), a Class B felonyOriginal Sentence: Fifteen (15) months imprisonment followed by six (6) years  
supervised release with the following special conditions: 1) That  
the defendant shall participate in a substance abuse program,  
which may include drug testing at the discretion and direction of the  
Probation Office; 2) That the defendant is prohibited from  
possessing any illegal or dangerous weapons; 3) Without the prior  
approval of the Probation Office, the defendant shall not enter the  
"Operation Weed and Seed" target area which is bordered by  
Lunalilo Freeway, Nuuanu Avenue, Bethel Street, Nimitz Highway,  
North King Street, Dillingham Boulevard, and Kokea Street, as  
depicted in the map attached to this Judgment; and 4) That the  
defendant provide the Probation Office access to any requested  
financial information.Modification: On 7/6/07, the Court modified the following conditions of  
supervised release:**General Condition:** That the defendant shall refrain from any  
unlawful use of a controlled substance. The defendant shall submit  
to one drug test within 15 days of the commencement of  
supervision and at least two drug tests thereafter but no more than  
eight valid drug tests per month during the term of supervised  
release (mandatory condition).

**Special Condition No. 1:** That the defendant shall participate in and comply with substance abuse treatment which includes drug and alcohol testing in a program approved by the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

**Special Condition No. 5:** That the defendant shall perform up to 50 hours community service as instructed by the Probation Office.

Type of Supervision: Supervised Release      Date Supervision Commenced: 5/23/03

### PETITIONING THE COURT

[✓] To modify the conditions of supervision as follows:

**Special Condition No. 6:** That the defendant is prohibited from the possession and consumption of alcohol during the term of supervised release.

### CAUSE

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
1. Special Condition No. 1	Mr. Sua failed to report for drug testing at Freedom Recovery Services, Inc., on 8/17/07, 9/23/07, 12/21/07, and 12/24/07.

With respect to the violations of failure to submit for drug testing on 8/17/07, 9/23/07, 12/21/07, and 12/24/07, Mr. Sua readily admits to the violations. Mr. Sua admits that he failed to submit for drug testing at Freedom Recovery Services, Inc. (FRS), because of work and/or that he forgot to call FRS for his drug testing schedule. Mr. Sua was participating in treatment at FRS that included the drug testing regime. Prior to the violations, Mr. Sua demonstrated that he was familiar with the drug testing protocol and regime at FRS because he submitted urine specimens in August 2007, September 2007, and December 2007.

Mr. Sua has been on supervised release since 5/23/03 and has struggled to comply with the conditions of supervision. Three prior reports of noncompliance were forwarded to the Court. The violations that served as the basis for these reports included technical violations (missed drug tests) and law violations. The law violations were later dismissed in state court.

With respect to the offender's supervision adjustment, although he completed the drug aftercare program in November 2004, he struggled to comply with the drug testing regime at the Drug Addiction Services of Hawaii, Inc., as evidenced by his

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admission for failing to submit for drug testing six times from December 2003 to August 2004. A violation report dated 12/7/04 was submitted to the Court recommending that no action be taken at that time. In a second report of noncompliance, the Court was informed that on 8/18/05, Mr. Sua was arrested by the Honolulu Police Department for Assault in the Third Degree and Possessing Intoxicating Liquor While Operating a Motor Vehicle. The offender adamantly denied the charges and was later acquitted of these charges in state court on 8/17/06. In a third report of noncompliance, on 7/5/07, the Court was informed of the offender's arrest for Operating a Vehicle Under the Influence of an Intoxicant, his failure to report this arrest in a timely manner, and his consumption of alcohol to excess based on a Blood Alcohol Content of .138 percent. The law violation was later dismissed in state court. As indicated above, although the law violations were dismissed, the Court modified the supervision conditions based on the offender's conduct that manifested through the technical violations.

The contributing factors for the aforementioned violations included Mr. Sua's lack of a stable residence, lack of stable employment, and lack of family resources in the community. These factors appeared to contribute to his struggle to comply during the earlier part of his supervision. In spite of his struggle to comply, however, Mr. Sua did not test positive for illicit drugs. Mr. Sua was always cooperative and had a good attitude with the Probation Office. With respect to his alcohol consumption, Mr. Sua readily admits that he lacks the ability to control his alcohol consumption. He states that he does not drink alcohol daily but consumes it with co-workers after work once every 2 weeks. Mr. Sua participated in treatment with Freedom Recovery Services, Inc., for alcohol treatment. In light of Mr. Sua's inability to control his alcohol consumption, he has agreed to the proposed special condition that prohibits him from consuming alcohol for the duration of the supervised release term. Supervised release will expire on 5/22/09.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The subject waives his right to a hearing and to assistance of counsel. The subject agrees to the modification of the conditions of supervised release. The

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subject's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by,



FITUINA F. TUA  
Senior U.S. Probation Officer

Approved by:



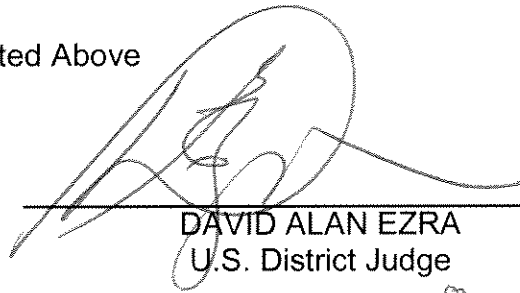
GENE DeMELLO, JR.  
Supervising U.S. Probation Officer

Date: 1/24/08

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THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above  
☐ Other



DAVID ALAN EZRA  
U.S. District Judge

1-25-08

Date

PROB 49  
(5/96)

# United States District Court

District of Hawaii

## Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

[x] To modify the conditions of supervision as follows:

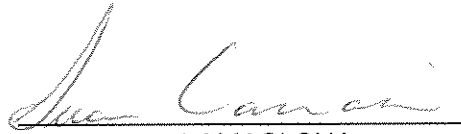
**Special Condition No. 6:** That the defendant is prohibited from the possession and consumption of alcohol during the term of supervised release.

Witness:



FITUINA F. TUA  
Senior U.S. Probation Officer

Signed:



LAMASI SUA  
Supervised Releasee

1-7-2008  
Date